

# EXHIBIT 34



# ● Practical Handbook on the Operation of the Service Convention



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Published by  
**The Hague Conference on Private International Law**  
**Permanent Bureau**  
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ISBN 978-94-90265-47-2

Published in The Hague, the Netherlands



## Foreword

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On the occasion of the 50<sup>th</sup> anniversary of the conclusion of the *Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, it is my great pleasure to present this updated and expanded 4<sup>th</sup> edition of the Practical Handbook on the Operation of the Service Convention.

Since the publication of the 3<sup>rd</sup> edition of this Handbook in 2006 (which I had the pleasure to prepare with the assistance of Ms Laurence Thébault), there have been important developments in case law and State practice in relation to the Hague Service Convention. These developments are the most important basis for this 4<sup>th</sup> edition. Furthermore, in recent years, new issues have arisen with respect to the operation of the Convention, many of which are the result of unprecedented technological developments. Thus, this 4<sup>th</sup> edition also includes comprehensive research and analysis relating to the use of information technology in the operation of the Convention, an area that continues to evolve.

I would like to take this opportunity to sincerely thank all those who have contributed to the finalisation of this edition of the Handbook (a succinct synopsis summarising the genesis of the Handbook follows below, p. V). At the Permanent Bureau, the main preparatory and drafting work was carried out by Ms Mayela Celis (Principal Legal Officer). My attaché Mr Thomas John and Mr Alexander Kunzelmann (former Senior Legal Officer) also contributed to this important work. It has been finalised with the assistance of Mr Brody Warren (Legal Officer). I am also most grateful to the many national experts who were part of the Working Group and who helped to produce an advanced draft of this edition of the Handbook as part of the preparations for the meeting of the Special Commission held in 2014 (these experts are listed on p. VII). Thanks should also go to the many interns of the Permanent Bureau who were involved in this project. While they are too numerous to be listed here, I wish to acknowledge their contributions.

This Handbook is published together with its *pendant*, the Practical Handbook on the Operation of the Evidence Convention, which is now available in a new, completely revised, 3<sup>rd</sup> edition. Both Handbooks are first-of-a-kind publications prepared by the Permanent Bureau: before their official release, they were formally approved by the Council on General Affairs and Policy, the highest organ of the Hague Conference on Private International Law. This of course only increases the authoritative value of this Handbook as a secondary source of information on the operation of this important Convention.

This edition of the Handbook has been updated to November 2015. We recommend that readers consult the Hague Conference website on a regular basis for supplementary practical information and updates regarding the Convention.

Just as the previous edition of the Service Handbook was widely used and cited around the world, including by courts, I very much hope that this 4<sup>th</sup> edition, too, continues to prove useful and will provide relevant guidance to the international legal community.

Christophe Bernasconi | *Secretary General*

## B. Requests for service (Art. 3)

### a) The forwarding authority

#### (1) General description

121. Under Article 3, a request for service may only be forwarded to the Central Authority of the requested State by an “authority or judicial officer competent under the law of the State in which the documents originate”; in other words, the Convention sets the minimal requirement that the request be forwarded by an “*authority*” or a “*judicial officer*”, but leaves it to the *requesting State* to determine who qualifies as competent authority or judicial officer in the sense of Article 3. What are the core elements of this general framework?
122. At the outset, it is important to note that *private persons* are *not* entitled to send directly a request for service to the Central Authority.<sup>169</sup>
123. Also, the *requested State cannot apply its own domestic rules* to verify the competence of the forwarding authority. Similarly, a State Party to the Service Convention cannot impose requirements on Hague requests that it sets outside the conventional framework (*e.g.*, on Letters Rogatory received from States which are not Parties to the Service Convention).
124. The *diversity* of authorities or judicial officers competent to issue requests for service to a Central Authority is *very great*. In most States Parties, these are decentralised authorities, courts or tribunals, prosecutors, registrars, *huissiers*, process servers, etc. In some States, such as *Croatia, Egypt, Finland, Latvia* and in a number of *Swiss cantons*,<sup>170</sup> the requests are systematically channelled through the national Central Authority, which then sends them abroad.
125. The Special Commission meeting held in 1977 discussed the possibility of establishing a *list of forwarding authorities* for all States Parties; it considered that such a list would be useful but also pointed out that it would necessarily be descriptive and for information only.<sup>171</sup> It is indeed hard to imagine that one could draw up a comprehensive and updated directory that would individually list all forwarding authorities for each State Party. In addition, the publication of such a list would have undesirable practical effects, as it would constitute an incentive to review the competence of the forwarding authority in a stricter manner than is currently practised (see para. 126). It is against this background that the second edition of this Handbook (published in 1992) offered in *Part Two (Transmission of requests for Service by the Central Authority)* general information relating to each State Party which included a description of the authorities competent under Article 3 to send requests for service to the Central Authority of another State Party (see Section B – *Forwarding of requests for service to the Central Authority of another Contracting State* – of each national report). This information did *not* enumerate all the authorities or judicial officers *individually* but rather referred to a group of persons or entities (*e.g.*, “all clerks of courts”

<sup>169</sup> Explanatory Report (*op. cit.* note 9), p. 368; see also *ibid.*, pp. 184-186.

<sup>170</sup> The relevant cantons are: Jura, Neuchâtel, Schwyz (for all requesting authorities, apart from courts), and Zurich. See Federal Department of Justice and Police, Federal Office of Justice, *International Judicial Assistance in Civil Matters, Guidelines*, 3rd ed., Berne, 2003 (updated in January 2013), p. 7, available at < <http://www.rhf.admin.ch/etc/medialib/data/rhf.Par.0064.File.tmp/wegl-ziv-e.pdf> > [last consulted on 20 November 2015].

<sup>171</sup> Report of the 1977 SC (*op. cit.* note 123), p. 386.